

ORIGINAL

(Del. Rev. 12/98)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

Zhang, Xianhua

(Name of Plaintiff or Plaintiffs)

v.

CIVIL ACTION No. 07-555

ING Direct

(Name of Defendant or Defendants)

**COMPLAINT UNDER TITLE VII
OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to *Title VII of the Civil Rights Act of 1964*, as amended, for **employment discrimination**. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at

212 Yorktown Court
(Street Address)
Malvern Chester PA 19355
(City) (County) (State) (Zip Code)
610-407-9217
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at

1 South Orange Street
(Street Address)
Wilmington New Castle DE 19801
(City) (County) (State) (Zip Code)

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's ING Direct place of business

(Defendant's Name)
located at 802 Delaware Avenue
(Street Address)
Wilmington New Castle DE 19801
(City) (County) (State) (Zip Code)

2007 SEP 17 PM 3:15
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

5. The alleged discriminatory acts occurred on 16, August, 2005.
(Day) (Month) (Year)

6. The alleged discriminatory practice ☒ is ☒ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,

(Agency) (Street Address) (City)
_____, regarding
(County) (State) (Zip Code)
defendant's alleged discriminatory conduct on _____, _____, _____.
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States regarding defendant's alleged discriminatory conduct on: 30, May, 2006.
(Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter which was received by plaintiff on: 21, June, 2007.
(Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☒ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☒ Failure to promote plaintiff.
- D. ☒ Other acts (please specify below)

I was hired as Database Support Engineer III on 4/14/05 and was discharged on 8/16/05 due to my age, disability/impairment and race. I was denied my accrued PTO and business time off pay. Some of my personal belongings were also seized. I was replaced with an younger, less experienced individual.

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☒ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☐ That the Court appoint legal counsel.
- C. ☐ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 9/15/2007

Xianhua Zheng
(Signature of Plaintiff)

(Signature of additional Plaintiff)

DISMISSAL AND NOTICE OF RIGHTS

To: Peter Zhang
212 Yorktown Court
Malvern, PA 19355

From: Equal Employment Opportunity Commission
Philadelphia District Office
The Bourse
21 S. Fifth Street, Suite 400
Philadelphia, PA 19106-2515

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No.	EEOC Representative	Telephone No.
530-2006-03017	Legal Unit	(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

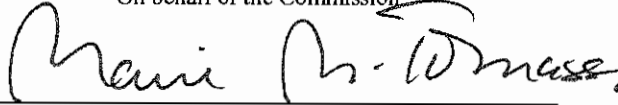
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

 June 18, 2007

Enclosure(s)

Marie M. Tomasso, District Director

(Date Mailed)

cc: ING Direct
David J. Woolf, Esquire (For Respondent)

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May 24, 2006

(Peter) Xianhua Zhang
212 Yorktown Court
Malvern, PA 19355

The Philadelphia District Office, EEOC
Charge Intake Process
The Bourse Building
21 S. Fifth Street, Suite 400
Philadelphia, PA 19106

To Whom It May Concern:

Home phone: 610-407-9217

Email: peterzhang9999@yahoo.com

Education: MS in Management Information Systems Southern Illinois University, Edwardsville, IL,
1997

Qualifications: I am a certified Oracle DBA by Oracle Corporation and SQL Server DBA with ten-year proven US working experience of database design, administration, programming and trouble shooting on UNIX, Windows and Linux.

Employer info: ING DIRECT
1 South Orange St, Wilmington DE 19801-5006
302-658-2200

Number of Employees: Over 500

I lost my job as Database Support Engineer III – Oracle (Database Administrator) with ING DIRECT on Aug 16, 2005 because I was discriminated there due to my disability, age and race. Back to 1/23/2003, I was hit from rear during a traffic accident. My neck and right shoulder were seriously injured. MRI scans show that there are significant disc protrusions at the C4-5 and C5-6 levels to the right side inside the neck (Exhibit A). As a result of the injuries, there are constant pains around my neck, upper right back and right shoulder/arm areas with some numbness and stiffness of right hand center finger. I am right handed. But now my right hand is much weaker and less deft than my left hand. My typing speed is slower than I did before the accident. I can no longer use mouse as long and as quickly as I did before the accident. I have to take rests from time to time during work due to fatigue of right arm/shoulder and distraction of pains.

I had worked hard to finish my assignments on time since I started for ING Direct on 4/11/05. Up to the point of my first evaluation (Exhibit B) that occurred on 5/22/05, Kelley Yole, my manager was satisfied with my performance. However, she also found my deficiencies caused by disabilities due to injuries. In this evaluation, she asked me to improve typing skills and working speed before the end of 90-day probation period. She said she needs someone working faster because it is a fast pacing environment. It is not easy for her to get approval for a new Database Administrator. So she expected me to follow the same model. I felt upset about her requirements and told her about my injuries and impairments with hope to get some flexibility and generousities. Since then, I found that my assignments have changed fundamentally. My new projects require lots of scripting such as perl and

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UNIX shells but little Database Administration skills such as database configuration and performance tuning. Generally speaking, programmers are usually good at those skills. Kelley Yole was also very picky with the way to do the job. That is really unusual. I had some difficulties to finish assignments following her way. Therefore, I got a bad second evaluation on 6/22/05 (Exhibit C).

During the meeting, I argued with Kelley Yole that I would do my best to work on any jobs assigned to me. But it was unfair to evaluate me solely based on those jobs assigned to me because I am a Database Administrator, not a programmer. I had already shown skills as a good Database Administrator from my initial assignments. If I was given similar tasks, I could prove that I am a good fit for this job even though I cannot type and work as fast as she expects due to disability caused by the injuries suffered from the accident. I also explained to Kelley Yole about the nature of my impairments caused by traffic accident. She had to reluctantly agree to give me some projects that require rich Database Administrator knowledge.

New projects progress well. When the end of 90 days came, Kelley Yole insisted that she still needed some time for me to prove that I am a good fit for this job and extended my probation period for 30 days (Exhibit D). I am very confident about my abilities and signed the form even though I felt very bad about her decision. Since I had 'done a pretty decent job' (words from Kelley Yole), she orally informed me that I had passed Introductory Performance Appraisal on afternoon of 7/29/05. After that I was placed on-call and got other benefits such as personal time off, business card and 401k.

Around 2:30 pm 8/16/05, I was working hard as usual. Kelley Yole took me to the HR and told me that I was discharged. I asked why. She and Naomi Seramone from HR told me that the cause was 'unsatisfactory performance'. I asked where my job performance fell below the requirements. Naomi Seramone said that I could not work faster and my typing was slow. I told her about my impairments of the right shoulder/arm/hand due to injuries suffered in the traffic accident and argued that I had never failed finishing projects on time. She did not listen to me. Instead she said my employment was 'at-will' and can be fired anytime without any reasons.

Even meanly, I was not allowed to go back to my desk to pick up my personal belongings. Naomi Seramone promised to bring them to me and would FedEx anything missing later. However, when I found that many of my personal belongings such as staples, tapes, pens (ING Direct provide no office supplies.) and tech papers I brought from home were missing and sent two emails for them 8/25/05 and 8/29/05. She even did not care to reply. There is no written notice for my discharge. In the letter to PA Bureau of UC Benefits and Allowances, ING Direct states that 'Employee was discharged for Unsatisfactory Performance - with no misconduct' and rule violation.

The wrongful termination was a heavy blow to me mentally and physically. Initially I could not understand why I was fired all of a sudden. When I knew they hired a much younger man with much less experience shortly and this reminded me of the budget talks before I was discharged, I perceived the real causes behind my discharge. After carefully reviewing my four months tenure with ING Direct, the differences of projects assigned to me, the evaluations, the cause given for discharge and the person who had filled my position, I believe the accusation of Unsatisfactory Performance is only a pretext. I have been a victim of discrimination against me because of my disability, age and race.

The following evidences support my findings. During my tenure with ING Direct, I got three written evaluations and one oral evaluation. The first one on 5/25/05 shows that I am technically a good fit for

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the job. As for the improvements, there are basically two parts. One is to continue to be familiar with environments and learn new skills. It is a normal requirement for all new comers. The other is to work faster and type faster. Such requirements are not part of essential functions for the job defined as Database Support Engineer III. Even though it is very hard for me to reach this level within 90 days, I have already used my rich working experience and worked longer hours to overcome the drawbacks caused by my impairments of the right shoulder/arm/hand.

However, the assignments after first evaluation are totally different from those before with very strict instructions. The skills to finish these projects are neither part of essential functions for the job defined as Database Support Engineer III nor my strong points. Take a simple example with basketball game. If a good center is asked to play the role as a guard, then the outcome is already known before the start. This is exact the case with me between first and second evaluations after I disclosed my impairments. So onerous working requirements were 'constructively' created to make way to discharge me.

I told Kelley Yole that I could not agree with her because it was unfair to evaluate me based on the projects assigned to me for the past month. I also told her that I do not need any reasonable accommodations to perform my job well. My impairment is that I could not type very fast and work fast continually since my right hand is weak and needs some rest from time to time. But the performance issue was caused by past month projects not by my incompetence or impairments. Only after Kelley Yole agreed to assign me projects suitable for senior level Oracle Database Administrator, did I signed the evaluation form and not go to appeal to the upper level management because I was fully confident with my abilities if the projects are right. There are no issues with the following projects. I got a much better third evaluation on 7/12/05. About two weeks later in the afternoon of 7/29/05, Kelley Yole orally informed me that I had passed the Probation period and the written notice would come at the end of 30 days extension. To my surprise, I finally still got discharged.

After that, I was credited PTO, placed on call and enrolled into 401(k) plan.

The above evidences show that I am fully qualified for the job. But my fate with ING Direct was actually decided after I disclosed my impairments of the right shoulder/arm/hand caused by the injuries suffered in the traffic accident. They need people young and healthy who can work fast and type very fast continually and who can be paid lower. I am not young bothered with impairments. They regard my impairments as an unconquerable obstacle for my performance to meet such requirements. My much younger replacement is also strong evidence showing that ING Direct prefers young and health guys to people like me. Furthermore, my race also plays a role in the decision by ING Direct to discharge me. Because I am Asian, they consider me as an underdog that can be discriminated out easily with or without pretext. So they discharged me rudely and give me no chances for arguments. They even very meanly seized my personal belongings. All these are discrimination against me for my disability, age and race. It is also unlawful against the statutes administered by EEOC. I declare under penalty of perjury that above statements are true and correct to the best of my knowledge, information and belief. If new information is needed, please let me know. Thank you very much for your helps.

Sincerely,

Peter Xianhua Zhang

Peter Xianhua Zhang

Board Certified
Orthopedic Surgeons

JAMES P. O'NEILL, D.O.
RAYMOND D. DRAGANN, D.O.
PAUL M. SIMONELLI, D.O.
THOMAS J. RENZ, D.O.
MARC P. OLIVERI, D.O.
JOSEPH W. MEHM, M.D.



Total Joint Replacement
Sports Medicine
Spine Surgery
Hand Surgery
Fracture Care
Work/Sport Fitness
Evaluation
Arthroscopic Surgery

March 14, 2003

Harold F. White D.O.
219 S. Queen St.
Lancaster, PA 17603

PATIENT: Xianhua Zhang
PATIENT ACCOUNT #56532
DATE OF BIRTH: 11/24/57
DATE SEEN: 03/13/03

Dear Dr. White:

Xianhua Zhang was seen in follow up today.

He continues to complain of right shoulder pain. He holds his left hand constantly over the trapezius at the root of his neck. His right biceps reflex is absent with a 2/4 reflex on the left. Strength of biceps is 4/5 on the right and 5/5 on the left. Impingement sign is mildly positive. Drop arm test is negative.

I reviewed with the patient the MRI scan of his cervical spine from Community Hospital of Lancaster done on March 10, 2003. This shows a large herniated disc at C4/5 on the right side producing significant foraminal narrowing and compression upon exiting nerve root.

MRI of the right shoulder shows no evidence of rotator cuff tear. There is arthritis involving the AC joint.

IMPRESSION HERNIATED CERVICAL DISC, C4/5 RIGHT.

RECOMMENDATIONS The patient was educated about the serious nature of this problem. We will set him up to see Dr. Oliveri as soon as possible for consideration of surgical discectomy at C4/5 on the right. I started the patient on a Medrol dose pack to try to diminish his nerve root edema.

Thank you for allowing me to participate in the care of your patient.

Sincerely,

PMS/lr
Dictated/not read

Paul M. Simonelli, D.O.



New Employee 30 and 60 Day Review

Employee: Peter Xiahuna Zhang Position Title: Database Support Engineer III

Manager: Kelley Yole Date: 4/11/05

INSTRUCTIONS: This form should be used at the new employee's 30 and 60 day review with their manager. Appraise employee's work performance as it pertains to the current job requirements. Make note of any improvements, objectives, goals and comments that pertain and support ING Bank's Corporate Vision. Any concerns and improvements should be communicated to the employee. Add comments when necessary. See the Employee Handbook for further information on performance appraisals.

Fundamental to ING DIRECT's continued success is committing to six core values expressed in the acronym "DIRECT".

> Direct > Integrity > Respect > Excellence > Customer Focused > Teamwork

ING DIRECT

- Does the employee have a clear understanding of the following: Company goals
 - Benefits
 - The Orange Code
 - Policy and Procedures
 - Cache
 - myHR

Employee's Role

- Does the employee have a clear understanding of his/her role in the IT department?
 - Go over their role within the department and within the company.

Performance

- Is the employee's performance meeting the job requirements?
- Is the employee running into roadblocks preventing tasks from being completed?
- Does the employee have concerns about meeting the job requirements?

Team Work

- Is the employee forming internal relationships within the department and within the company?
- Has the employee met the majority of contacts?

Areas Where the Employee Has Excelled:

{Technically I do not have issues to meet the job requirement. My performance has met the job requirements. I have worked closely with team members and other teams to do daily support of production and QA, Dev databases such as central logging auditing, database duplication and asynchronous patches – Peter Zhang}

- Applying his technical skills of RMAN
- Interfacing with ED customers on Smart Prospecting and being attentive to their needs.
- Interfacing with the Database Team with Questions.

Areas to Focus On:

{ In the coming future, get more familiar with databases environments and play more and more important roles. Pick up Sqlserver2000 to handle more tasks. – Peter Zhang}

- Take a more dominant role in ORACLE Support
- Continue to familiarize his-self with ING Direct's database environment.
- Spend more time proactively investigate projects before going to other team members with questions.
- Improve typing skills before 90days.
- Dedicate time to learning Sql Server.
-

5/24/2005

PXZ P7

Employer's Comments:

As Peter becomes more and more familiar with the environment I will begin expecting him to work and react quicker to get his assignments done. Additionally, we will need to work with the group to acquire some knowledge of Sql Server. Past the 90 days, Peter will be required to be on-call.

Employee's Comments:

I enjoy working in this team and hope to contribute greatly to it as a team member. Like to hear feedback from the team and will make adjustments to work more effectively in the future.

Peter Xianhua Zhang
5/24/05

5/24/2005

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New Employee 30 and 60 Day Review

Employee: Peter Xiahuna Zhang Position Title: Database Support Engineer IIIManager: Kelley Yole Date: 4/11/05

INSTRUCTIONS: This form should be used at the new employee's 30 and 60 day review with their manager. Appraise employee's work performance as it pertains to the current job requirements. Make note of any improvements, objectives, goals and comments that pertain and support ING Bank's Corporate Vision. Any concerns and improvements should be communicated to the employee. Add comments when necessary. See the Employee Handbook for further information on performance appraisals.

Fundamental to ING DIRECT's continued success is committing to six core values expressed in the acronym "DIRECT".

> Direct > Integrity > Respect > Excellence > Customer Focused > Teamwork

ING DIRECT

- Does the employee have a clear understanding of the following:

- Company goals
- Benefits
- The Orange Code
- Policy and Procedures
- Cache
- myHR

Employee's Role

- Does the employee have a clear understanding of his/her role in the IT department?
 - Go over their role within the department and within the company.

Performance

- Is the employee's performance meeting the job requirements?
- Is the employee running into roadblocks preventing tasks from being completed?
- Does the employee have concerns about meeting the job requirements?

Team Work

- Is the employee forming internal relationships within the department and within the company?
- Has the employee met the majority of contacts?

Areas Where the Employee Has Excelled:

{Employee}

Technically I do not have issues to meet the job requirement. I have worked closely with team members and members from other team to daily support company production, QA and DEV databases. Work on and complete central logging, rman backup and recovery, database duplications, performance tuning, database monitoring, etc tasks and projects.

{Manager Response}

Areas to Focus On:

{Employee}

In the coming future, speed up to get more familiar with databases environments to improve work efficiency and play more and more important roles in Oracle and Sqlserver2000 support. Pick up Sqlserver2000 to handle more tasks. Improve typing skills. Even though the injuries to my neck and right shoulder suffered in traffic accident two years ago still has some effects on my typing speed, I will work hard and practice more to overcome this issue. I request a little more time to improve my typing skills.

7/11/2005

PXZ P9

{Manager Response}

Peter seems to have conceptual knowledge of ORACLE, however, for his role as Database Support Engineer III he is having difficulty with the following items:

- Applying such knowledge on projects and keeping up with his peers.
- Lacks a sense of urgency in getting things done as production support.
- Has difficulty completing projects in a reasonable time frame.
- Completing projects based on the initial instructions given.
- Showing a proficiency in either scripting or plsql.

Per Peter's physical injuries and how they affect his efficiency, I advise that he contact HR immediately in regards to any special needs he may have. ING Direct HR will be able to direct him and make accommodations and leniencies in the following with regards to his typing:

- Reasonable accommodations to his desk, keyboard, etc (i.e. typing set up) upon Peter's request.

It is recommended that Peter continue to work on his typing efficiency, but at a pace that is suitable to his health.

Employee's Comments: I enjoy working in this team and hope to contribute greatly to it as a team member. Like to hear feedback from the team and will make adjustments aggressively to work more effectively in the future.

Employer's Comments:

Peter will need to show a strong improvement in the things above, over the next .

In the next coming weeks , I advise the following as an action plan:

- Set up a meeting for ½ hour each week with me on Monday to review the weeks up coming tasks.
- Set up a meeting for ½ hour each week on Friday to review what was accomplished and whether objectives have been met for the week.

The week of July 10, Peter and I will meet to review his progress over the past couple weeks and determine whether it is appropriate to end his probationary period, extend the probationary period or discontinue his employment with ING Direct.

Xianhua Zheng 6/22/05
Employee Date

Kelley Yoh 6/22/05
Employer Date

6/22/2005



Introductory Performance Appraisal

PXZ P10

Employee: Peter Zhang Position Title: Database Support Engineer III - ~~60200~~

Department: IT Date: 7/12/2005

INSTRUCTIONS: Appraise employee's work performance as it pertains to the current job requirements. Make note of any improvements, objectives, goals and comments that pertain and support ING Bank's Corporate Vision. Any concerns and improvements should be communicated to the employee. Add comments when necessary. See the Employee Handbook for further information on performance appraisals.

Factors	Comments
---------	----------

Areas which the employee has excelled-

- *Peter does a great job in documenting his proposals and strategies*
- *Development Patch.*

Areas Which Need Improvement:

- *Applying technical knowledge on projects.*
- *Lacks a sense of urgency in getting things done as production support.*
- *Has difficulty completing projects in a reasonable time frame.*

Objectives to be Accomplished by Next Appraisal:

Show improvement on the notes above in regards to urgency, timeliness, and technical application of knowledge.

New Hire Orientation Completed On:

If you have not attended New Hire Orientation, you are required to attend prior to the end of your introductory period.

Employer's Comments:

As noted in his 60 day, Peter needs to show a greater sense of urgency in the work he is doing and complete things in a quicker time frame. Peter has made progress in defining and showing his tactical strategies. He still needs to demonstrate, however, is ability to do these and complete them in a reasonable time frame.

As a result, I will extend Peter's probationary period. We will continue to meet until his performance is either satisfactory or we have determined that his employment will not be extended.

- ☐ *Employee has met job requirements and is now off of probation. SATISFACTORY PERFORMANCE has been met and the Employee has completed the New Hire Orientation program.*
- ☒ *Employee has not met job requirements. Therefore, ING will extend the employee's introductory period for an additional 30 days. After the 30 days are completed, ING will administer another performance appraisal which may/may not include discharge. See documentation attached for further information.*
- ☐ *Employee is discharged from ING Bank, fsb based on not meeting job requirements and/or poor job performance. See documentation attached for further information.*

I have reviewed the foregoing appraisal and acknowledge that the items and subjects contained herein were discussed with me. I further acknowledge that I have been encouraged to provide any comments or disagreements I may have about this appraisal in writing for attachment to this appraisal.

Xianhua Zhang 7/12/05
Employee's Signature Date

Kelley Holt 7/12/05
Manager's Signature Date

CHARGE INFORMATION QUESTIONNAIRE

PXZ P11

Please immediately complete the entire form, including any attached questionnaires, and return the entire document to the U. S. Equal Employment Opportunity Commission ("EEOC"). Answer all questions as completely as possible. REMEMBER, a charge of employment discrimination must be filed within the time limits imposed by law, generally within 300 days of the alleged discrimination.

PERSONAL BACKGROUND INFORMATION:Name: ☒ Mr. Xianma (Peter) ZhangAddress: 212 Yorktown Court
Malvern, PA 19355Phone Number: () 9217 (night) (610) 407-9217Date of Birth: 1/1/1957 Soc. F. -3755 Race: Asian**RESPONDENT INFORMATION (Employer, union, employment agency against whom the charge is being filed)**Respondent Name ING Direct

Address (If employer, the location where you actually worked or sought employment - If you worked out of your home, state that, and give the full address of the company home office or headquarters; if union or employment agency, the address where you conducted business)

1 South Orange StreetCity/State/Zip Code Wilmington, DE 19801 County New CastleMain telephone number 800-ING DirectApproximate total number of employees Over 500Type of business Banking**DATE OF HARM (last date any harm which you consider discriminatory happened):**8/16/2005 (Must be completed.)**TYPE OF HARM (the kind of adverse action that happened to you, for example, discharge, denial of hire, harassment):**Discharge**BASIS** Check the basis for your complaint (the reason you believe the action was taken against you).

<input checked="" type="checkbox"/> race	<input type="checkbox"/> color	<input type="checkbox"/> religion	<input type="checkbox"/> sex
<input type="checkbox"/> national origin	<input checked="" type="checkbox"/> age	<input checked="" type="checkbox"/> disability	<input type="checkbox"/> retaliation

Identify yourself in terms of the basis or bases you checked, for example, "I am black" or "I am a disabled person."

I am Asian American over age 40 with disability
and impairments caused by injuries from auto accident.

If you checked "retaliation," have you ever previously filed a charge with EEOC or another civil rights agency or complained to your employer about discrimination? () yes () no

If yes, please explain: _____

Pxz P12

CHARGE INFORMATION QUESTIONNAIRE (p. 2)

If none of the specified bases applies, describe the reason you believe the action was taken against you: _____

N/A

Please indicate whether you have signed a waiver (release) in connection with your employment situation:
 () Yes (X) No.

As the result of signing a waiver, have you received any consideration in addition to what you would have been entitled without signing the waiver? () Yes () No. If so, please specify what additional benefit you received:

N/A

If you have signed a waiver and have a copy of it, please attach to this document.

CONTACT PERSON: Please provide the name of an individual at a different address who is in the local area and who would know how to reach you.

Name _____ Relationship _____

Address _____

City _____ State _____ Zip Code _____

Area Code/Telephone Number _____

ADDITIONAL INFORMATION

1. Choose one of the following:

- a) (X) I want to file a charge.
 b) () I DO NOT WANT to file a charge at this time.
 c) () I want to speak with an EEOC Representative before this is filed as a charge.

I can be contacted at (area code/telephone number) 610-407-9217. The best days and times to contact me are evening 6pm-9pm

2. Indicate which of the following applies:

- a) (X) I have not filed a charge with any other agency concerning these same matters.
 b) () I have filed a charge with the agency/agencies named below concerning these same matters:
 Name of Agency _____
 Date Filed _____
 Agency docket number _____
 c) () I am scheduled for an interview with the agency named below:
 Name of Agency _____
 Date of Scheduled Interview: _____
 Location of Interview _____
 Name of Interviewer _____
 d) () I have received a Questionnaire to be completed from the agency named below:
 Name of Agency _____
 e) () I mailed the Questionnaire back to the agency named above on or about: _____

Signature

Xianhua Zhang

Date

4/29/2006

Name: Peter Xianhua Zhenig Date: 5/24/06 PX2 P13

**DISCIPLINE QUESTIONNAIRE
(DEMOTION, SUSPENSION, DISCHARGE, ETC.)**

1. Provide your employment history with the Respondent employer as follows:

- a) date of hire: 4/11/2005
- b) position title at time of hire: Database Support Engineer III
- c) position title at time of most recent discipline:
Database Support Engineer III
- d) date you were selected for the job you held at the time of the most recent discipline:
4/11/2005
- e) name of section/department at time of most recent discipline:
Database Services / Information Technology
- f) name and title of your immediate supervisor at time of most recent discipline:
Kelley Yobe, Team Lead Database Services

2. Describe the most recent discipline (discharge, suspension, demotion, etc.) given you:

Discharge. On 8/16/2005, around 2:30 pm, I was working hard as normal. All of sudden, I was called to HR and discharged.

3. What explanation was given to you as to the reason(s) for your receiving this most recent discipline?

Unsatisfactory performance. Slow typing. At-will employment. Please see details in my charge letter and its exhibits.

4. On what date were you told of the discipline to be given you?

8/16/2005

5. Were you informed orally or in writing of this discipline?

I was informed orally. There was no written documents.

6. What are the name and title of the person who informed you of the discipline to be given you?

Kelley Yobe, Team Lead Database Services

PXZ P14

DISCIPLINE QUESTIONNAIRE (p. 2)

7. If known, is the person identified in Q. #6 the person who recommended your discipline? Yes If not, identify by name and title the person who recommended that you be disciplined.

If you were disciplined for performance deficiencies, please answer questions 8 - 13 and provide copies of all documents in your possession which describe each answer.

8. What is the employer's discipline policy related to alleged performance deficiencies?

I am fully qualified for this job. Please see details in my charge letter. I am a better fit for this job than my replacement who is much less experienced.

9. How do you know what this discipline policy is?

I am fully qualified for this job.

10. Did you have performance problems to the extent claimed by your employer? If not, what is your version of your performance record and how can this be documented?

No. Please see details in my charge letter. Actually I am a better fit for this job than my replacement who is much less experienced.

11. Is performance documented by means such as manual or computer-generated sales records, productivity reports, etc.? If yes, describe the type(s) of reports generated. If there are no such reports or listings, explain to the best of your knowledge how the employer keeps track of performance-related matters.

Please see details in my charge letter and its exhibits.

PXZ P15

DISCIPLINE QUESTIONNAIRE (p. 3)

12. Describe your last 2 performance reviews, to include the overall rating, any specific area(s) of negative comments, the approximate date of each review, and the name and title of the person who gave you each review.

Please see details in my charge letter and its exhibits.

13. Have you received any oral or written counseling or notices of deficiency related to performance (e.g., written warnings, suspensions, placement on probation, etc.)? If yes, describe all such actions to include nature of action taken by the employer, stated reason for action taken, date, and name/title of supervisor or manager who caused the action to be taken.

Please see details in my charge letter and its exhibits.

If you were disciplined for conduct violations, please answer questions 14- 17 and provide copies of all documents in your possession which describe each answer.

14. What is the discipline policy related to the rules, policies or practices which you were charged with violating?

N/A

15. How do you know what the discipline policy is?

NAME: Peter Xianhua Zhang DATE: 5/24/06 PXZ P16

REMEDY INFORMATION

1. If your charge alleges failure to hire or failure to promote, what was the salary or salary range of the job you applied for? \$ _____. What was the salary of the position you held at the time you applied for the position in question? \$ _____.
2. If your charge alleges discharge or suspension without pay, what was the salary of the position you held at the time of discharge or suspension? \$85000.
3. If your charge alleges demotion, what was the salary of the position you held before you were demoted? \$ _____. After you were demoted? \$ _____.

4. Other than loss of salary, what money have you lost as a result of the alleged discrimination (e.g., cost of looking for new job, cost of health insurance you had to buy, etc.)? Describe each type of loss and provide an approximate dollar value for each type of loss. (NOTE: You should save receipts or other proof of all such expenses.)

Bonus equal to 18% of salary for 4.25 months is \$5418.
Eight day of PTO pay is \$2720. Four hours of Business
Time off is \$170. Profit sharing equal to 2% of
salary is \$602. INGA Direct also kept many of my
personal stuff such as staples, tape, pens and
written documents that I brought from home with
value about \$40. Total loss is \$8950.

5. Other than monetary losses, what losses have you incurred as a result of the alleged discrimination (e.g., loss of seniority, no longer being part of a pension plan, loss of company car, had to seek psychiatric services)?

Mental pains and sufferings.

REMEDY INFORMATION (p. 2)

PX2 P17

What relief or remedy are you seeking in response to filing a charge with EEOC?

Loss of \$8950 from Item 4 plus 3.5 month of salary with benefits that include 18% bonus, 2% profit sharing and 7 days of PTO equal to \$32129. Total is \$41079. Remedy for mental pains and sufferings established by EEOC. Correct wrong performance evaluation.

7.

If your charge alleges discharge or failure to hire, have you obtained other employment since the date of the alleged discrimination? If yes, please indicate the date of employment and the salary you earn with this new employer. (If there has been more than one employer, please indicate all dates of employment and salary with each employer since your date of discharge or the date you were denied hire by the employer named in your charge.)

Since 12/05, I have been working as a contractor for CDI Corp. The salary is \$53 every hour without any benefits.

I declare under penalty of perjury that I have read the above statements and that they are true and correct.

Peter Ximhua Zhang
Signature

5/24/06
Date

ORIGINAL

17-555

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS <u>Zhang, Xianhua</u> (b) County of Residence of First Listed Plaintiff <u>Chester</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number)	DEFENDANTS <u>ING Direct</u> County of Residence of First Listed Defendant <u>New Castle</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 50%;"> Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country </td> <td style="width: 50%;"> PTF DEF <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3 </td> <td style="width: 50%;"> Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation </td> <td style="width: 50%;"> DEF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 </td> </tr> </table>	Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country	PTF DEF <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3	Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation	DEF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6
Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country	PTF DEF <input type="checkbox"/> 1 <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3	Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation	DEF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6		

IV. NATURE OF SUIT (Place an "X" in One Box Only)				
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	

V. ORIGIN (Place an "X" in One Box Only)						
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): <u>Title VII, ADEA, ADA</u> Brief description of cause: <u>Job discrimination against age, race and disability, civil rights</u>	VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ <u>6000.00</u> CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY		(See instructions): JUDGE	DOCKET NUMBER
DATE	SIGNATURE OF ATTORNEY OF RECORD		
<u>9/16/2007</u>	<u>Xianhua Zhang</u>		

FOR OFFICE USE ONLY	RECEIPT #	AMOUNT	APPLYING IFP

JUDGE	MAG. JUDGE

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

Peter T. Dalleo
CLERK

LOCKBOX 18
844 KING STREET
U.S. COURTHOUSE
WILMINGTON, DELAWARE 19801
(302) 573-6170

RE: C.A.# 07-555

CASE CAPTION: _____ v. _____

ACKNOWLEDGMENT OF RECEIPT FOR F.R.Civ.P. 4

I hereby acknowledge receipt of a copy of Rule 4 (Summons) of the Federal Rules of Civil Procedure, and understand that it is my responsibility to make service of process on defendants in accordance with this rule.

Date Received 9-17-07
by Plaintiff:

Signed: Wei Lin
Pro Se Plaintiff

Date Received 9/17/07
by Clerk's office:

Signed: ES.
Deputy Clerk

Note: If you received Federal Rule 4 by mail, please sign this receipt and return it to:

Clerk
U.S. District Court
844 N. King Street
Lockbox 18
Wilmington, DE 19801

If applicable, Rule 4 mailed to plaintiff:

Date mailed

By Deputy Clerk

cc: Docketing Clerk

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-555

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 1 COPIES OF AO FORM 85.

09-17-07
(Date forms issued)

Wei Lin
(Signature of Party or their Representative)

Wei Lin
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action